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RIDDELL, INC.; ALL AMERICAN SPORTS CORPORATION; RIDDELL SPORTS
GROUP, INC.; BRG SPORTS, INC.; BRG SPORTS, LLC; EB SPORTS CORP.; and
BRG SPORTS HOLDINGS CORP.

**UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA**

ASPEN SPECIALTY INSURANCE
COMPANY,

Plaintiff and Counter-Defendant,

v.

RIDDELL, INC.; ALL AMERICAN
SPORTS CORPORATION; RIDDELL
SPORTS GROUP, INC.; BRG SPORTS,
INC., formerly known as EASTON-BELL
SPORTS, INC.; BRG SPORTS LLC,
formerly known as EASTON-BELL
SPORTS, LLC; EB SPORTS CORP.; and
BRG SPORTS HOLDINGS CORP.,
formerly known as RBG HOLDINGS
CORP.,

Defendants and Counter-Claimants.

Civil Case No.: 2:15-cv-06324

**STIPULATION AND ~~[PROPOSED]~~
PROTECTIVE ORDER**

Complaint filed: August 19, 2015

*Referred for all discovery matters to
Hon. Frederick F. Mumm*

1 **A. PURPOSES AND LIMITATIONS**

2 Discovery in this action is likely to involve production of confidential, proprietary,
 3 or private information for which special protection from public disclosure and from use
 4 for any purpose other than prosecuting this litigation may be warranted. Accordingly, the
 5 parties hereby stipulate to and petition the Court to enter the following Stipulated
 6 Protective Order. The parties acknowledge that this Order does not confer blanket
 7 protections on all disclosures or responses to discovery and that the protection it affords
 8 from public disclosure and use extends only to the limited information or items that are
 9 entitled to confidential treatment under the applicable legal principles. The parties
 10 further acknowledge, as set forth in Section M.3., below, that this Stipulated Protective
 11 Order does not entitle them to file confidential information under seal; Civil Local Rule
 12 79-5 sets forth the procedures that must be followed and the standards that will be applied
 13 when a party seeks permission from the court to file material under seal.

14 **B. GOOD CAUSE STATEMENT**

15 This action is likely to involve trade secrets and other valuable research,
 16 development, commercial, financial, technical and/or proprietary information for which
 17 special protection from public disclosure and from use for any purpose other than
 18 prosecution of this action is warranted. Such confidential and proprietary materials and
 19 information consist of, among other things, confidential insurance claim information,
 20 information regarding confidential business practices, and sensitive information related to
 21 ongoing underlying litigation, or information which may be privileged or otherwise
 22 protected from disclosure under state or federal statutes, court rules, case decisions, or
 23 common law. Such information may also include “protected health information,” as that
 24 phrase is defined in 45 C.F.R. § 160.103, that is subject to protection under the Health
 25 Insurance Portability and Accountability Act of 1996 (“HIPAA”).

26 Accordingly, to expedite the flow of information, to facilitate the prompt resolution
 27 of disputes over confidentiality of discovery materials, to adequately protect information
 28 the parties are entitled to keep confidential, to ensure that the parties are permitted

reasonable necessary uses of such material in preparation for and in the conduct of trial, to address their handling at the end of the litigation, and serve the ends of justice, a protective order for such information is justified in this matter. It is the intent of the parties that information will not be designated as confidential for tactical reasons and that nothing be so designated without a good faith belief that it has been maintained in a confidential, non-public manner, and there is good cause why it should not be part of the public record of this case.

C. **DEFINITIONS**

The terms in this Protective Order are defined as follows:

1. **Action**: this pending federal law suit.
2. **Challenging Party**: a Party or Non-Party that challenges the designation of information or items under this Order.
3. **“CONFIDENTIAL” Information or Items**: information (regardless of how it is generated, stored or maintained) or tangible things that qualify for protection under Federal Rule of Civil Procedure 26(c), and as specified above in the Good Cause Statement.
4. **Counsel**: Outside Counsel of Record and House Counsel (including their support staff).
5. **Designating Party**: a Party or Non-Party that designates information or items produced by any source in disclosures or in responses to discovery as “CONFIDENTIAL.”
6. **Disclosure or Discovery Material**: all items or information, regardless of the medium or manner in which it is generated, stored, or maintained (including, among other things, testimony, transcripts, and tangible things), that are produced or generated in disclosures or responses to discovery in this matter.
7. **Expert**: a person with specialized knowledge or experience in a matter pertinent to the litigation who has been retained by a Party or its counsel to serve as an expert witness or as a consultant in this Action.

1 8. **House Counsel**: attorneys who are employees of a party to this Action.
2 House Counsel does not include Outside Counsel of Record or any other outside counsel.

3 9. **Legend**. “Legend” means the following mark (or its substantial equivalent):
4 “CONFIDENTIAL: Subject to Protective Order – United States
5 District Court for the Central District of California, Case No.
6 2:15-cv-06324”

7 10. **Non-Party**: any natural person, partnership, corporation, association, or
8 other legal entity not named as a Party to this action.

9 11. **Outside Counsel of Record**: attorneys who are not employees of a party to
10 this Action but are retained to represent or advise a party to this Action and have
11 appeared in this Action on behalf of that party or are affiliated with a law firm which has
12 appeared on behalf of that party, and includes support staff.

13 12. **Party**: any party to this Action, including all of its officers, directors,
14 employees, consultants, retained experts, and Outside Counsel of Record (including their
15 support staffs).

16 13. **Producing Party**: a Party or Non-Party that produces Disclosure or
17 Discovery Material in this Action.

18 14. **Professional Vendors**: persons or entities that provide litigation support
19 services (e.g., photocopying, videotaping, translating, preparing exhibits or
20 demonstrations, and organizing, storing, or retrieving data in any form or medium) and
21 their employees and subcontractors.

22 15. **Protected Material**: any Disclosure or Discovery Material that is designated
23 as “CONFIDENTIAL.”

24 16. **Receiving Party**: a Party that receives Disclosure or Discovery Material
25 from a Producing Party.

26 **D. SCOPE**

27 The protections conferred by this Stipulation and Order cover not only Protected
28 Material (as defined above), but also (1) any information copied or extracted from

1 Protected Material; (2) all copies, excerpts, summaries, or compilations of Protected
 2 Material; and (3) any testimony, conversations, or presentations by Parties or their
 3 Counsel that might reveal Protected Material.

4 Any use of Protected Material at trial shall be governed by the orders of the trial
 5 judge. This Order does not govern the use of Protected Material at trial.

6 **E. DURATION**

7 Even after final disposition of this litigation, the confidentiality obligations
 8 imposed by this Order shall remain in effect until a Designating Party agrees otherwise in
 9 writing or a court order otherwise directs. Final disposition shall be deemed to be the
 10 later of (1) dismissal of all claims and defenses in this Action, with or without prejudice;
 11 and (2) final judgment herein after the completion and exhaustion of all appeals,
 12 rehearings, remands, trials, or reviews of this Action, including the time limits for filing
 13 any motions or applications for extension of time pursuant to applicable law.

14 **F. DESIGNATING PROTECTED MATERIAL**

15 1. Exercise of Restraint and Care in Designating Material for Protection. Each
 16 Party or Non-Party that designates information or items for protection under this Order
 17 must take care to limit any such designation to specific material that qualifies under the
 18 appropriate standards. The Designating Party must designate for protection only those
 19 parts of material, documents, items, or oral or written communications that qualify so that
 20 other portions of the material, documents, items, or communications for which protection
 21 is not warranted are not swept unjustifiably within the ambit of this Order.

22 Mass, indiscriminate, or routinized designations are prohibited. Designations that
 23 are shown to be clearly unjustified or that have been made for an improper purpose (e.g.,
 24 to unnecessarily encumber the case development process or to impose unnecessary
 25 expenses and burdens on other parties) may expose the Designating Party to sanctions.

26 If it comes to a Designating Party's attention that information or items that it
 27 designated for protection do not qualify for protection, that Designating Party must
 28 promptly notify all other Parties that it is withdrawing the inapplicable designation.

1 2. Manner and Timing of Designations. Except as otherwise provided in this
 2 Order (see, e.g., second paragraph of section F.2.a. below), or as otherwise stipulated or
 3 ordered, Disclosure or Discovery Material that qualifies for protection under this Order
 4 must be clearly so designated before the material is disclosed or produced.

5 Designation in conformity with this Order requires:

6 a. for information in documentary form (e.g., paper or electronic
 7 documents, but excluding transcripts of depositions or other pretrial or trial proceedings),
 8 that the Producing Party affix at a minimum, the Legend, to each page that contains
 9 protected material. If only a portion or portions of the material on a page qualifies for
 10 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
 11 by making appropriate markings in the margins).

12 A Party or Non-Party that makes original documents available for inspection need
 13 not designate them for protection until after the inspecting Party has indicated which
 14 documents it would like copied and produced. During the inspection and before the
 15 designation, all of the material made available for inspection shall be deemed
 16 “CONFIDENTIAL.” After the inspecting Party has identified the documents it wants
 17 copied and produced, the Producing Party must determine which documents, or portions
 18 thereof, qualify for protection under this Order. Then, before producing the specified
 19 documents, the Producing Party must affix the Legend to each page that contains
 20 Protected Material. If only a portion or portions of the material on a page qualifies for
 21 protection, the Producing Party also must clearly identify the protected portion(s) (e.g.,
 22 by making appropriate markings in the margins).

23 Any Documents containing "protected health information," as that phrase is
 24 defined in 45 C.F.R. § 160.103, that is subject to protection under HIPAA shall be
 25 considered as HIPAA Protected Material, subject to the protection of this Protective
 26 Order, whether each page is marked with the Legend or not. A Party wishing to
 27 designate "protected health information" should label the Documents as “HIPAA
 28 Protected Material” and may do so (i) in the manner provided at paragraphs F.2.a. above;

(ii) by notifying all other Parties to this litigation in writing that a defined category of Documents may contain "protected health information," which written notice shall result in all documents within the identified category being treated as HIPAA Protected Material, subject to protection of this Protective Order; or (iii) by affixing the Legend to the exterior of the deposition transcript, non-paper medium, or other file that contains a defined category of documents that the Producing Party intends to designate as HIPAA Protected Material. The Producing Party has the sole obligation to designate Documents or categories of Documents as containing "protected health information."

b. for testimony given in depositions that the Designating Party identify the Disclosure or Discovery Material on the record, before the close of the deposition all protected testimony.

c. for information produced in some form other than documentary and for any other tangible items, that the Producing Party affix in a prominent place on the exterior of the container or containers in which the information is stored the Legend. If only a portion or portions of the information warrants protection, the Producing Party, to the extent practicable, shall identify the protected portion(s).

3. Inadvertent Failures to Designate. If timely corrected, an inadvertent failure to designate qualified information or items does not, standing alone, waive the Designating Party's right to secure protection under this Order for such material. Upon timely correction of a designation, the Receiving Party must make reasonable efforts to assure that the material is treated in accordance with the provisions of this Order.

G. CHALLENGING CONFIDENTIALITY DESIGNATIONS

1. Timing of Challenges. Any Party or Non-Party may challenge a designation of confidentiality at any time that is consistent with the Court's Scheduling Order.

2. Meet and Confer. The Challenging Party shall initiate the dispute resolution process under Local Rule 37.1 et seq.

3. Burden. The burden of persuasion in any such challenge proceeding shall be on the Designating Party. Frivolous challenges, and those made for an improper purpose

(e.g., to harass or impose unnecessary expenses and burdens on other parties) may expose the Challenging Party to sanctions. Unless the Designating Party has waived or withdrawn the confidentiality designation, all parties shall continue to afford the material in question the level of protection to which it is entitled under the Producing Party's designation until the Court rules on the challenge.

H. ACCESS TO AND USE OF PROTECTED MATERIAL

1. Basic Principles. A Receiving Party may use Protected Material that is disclosed or produced by another Party or by a Non-Party in connection with this Action only for prosecuting, defending, or attempting to settle this Action. Such Protected Material may be disclosed only to the categories of persons and under the conditions described in this Order. When the Action has been terminated, a Receiving Party must comply with the provisions of Section N. below (FINAL DISPOSITION).

2. Protected Material must be stored and maintained by a Receiving Party at a location and in a secure manner that ensures that access is limited to the persons authorized under this Order.

3. Disclosure of "CONFIDENTIAL" Information or Items. Unless otherwise ordered by the court or permitted in writing by the Designating Party, a Receiving Party may disclose any information or item designated "CONFIDENTIAL" only to:

- a. the Receiving Party's Outside Counsel of Record in this Action, as well as employees of said Outside Counsel of Record to whom it is reasonably necessary to disclose the information for this Action;
- b. the officers, directors, and employees (including House Counsel) of the Receiving Party to whom disclosure is reasonably necessary for this Action;
- c. Experts (as defined in this Order) of the Receiving Party to whom disclosure is reasonably necessary for this Action and who have signed the "Acknowledgment and Agreement to Be Bound" (Exhibit A);
- d. the court and its personnel;
- e. court reporters and their staff;

1 f. professional jury or trial consultants, mock jurors, and Professional
 2 Vendors to whom disclosure is reasonably necessary for this Action and who have signed
 3 the “Acknowledgment and Agreement to Be Bound” (Exhibit A);

4 g. the author or recipient of a document containing the information or a
 5 custodian or other person who otherwise possessed or knew the information;

6 h. during their depositions, witnesses, and attorneys for witnesses, in the
 7 Action to whom disclosure is reasonably necessary provided: (1) the deposing party
 8 requests that the witness sign the form attached as Exhibit 1 hereto; and (2) they will not
 9 be permitted to keep any confidential information unless they sign the “Acknowledgment
 10 and Agreement to Be Bound” (Exhibit A), unless otherwise agreed by the Designating
 11 Party or ordered by the court. Pages of transcribed deposition testimony or exhibits to
 12 depositions that reveal Protected Material may be separately bound by the court reporter
 13 and may not be disclosed to anyone except as permitted under this Stipulated Protective
 14 Order; and

15 i. any mediator or settlement officer, and their supporting personnel,
 16 mutually agreed upon by any of the parties engaged in settlement discussions; and

17 j. reinsurers, retrocessionaires, accountants, regulators, or auditors to
 18 whom the Parties have a contractual, statutory, or regulatory obligation to report.

19 **I. PROTECTED MATERIAL SUBPOENAED OR ORDERED PRODUCED IN**
 20 **OTHER LITIGATION**

21 1. If a Party is served with a subpoena or a court order issued in other litigation
 22 that compels disclosure of any information or items designated in this Action as
 23 “CONFIDENTIAL,” that Party must:

24 a. promptly notify in writing the Designating Party. Such notification
 25 shall include a copy of the subpoena or court order;

26 b. promptly notify in writing the party who caused the subpoena or order
 27 to issue in the other litigation that some or all of the material covered by the subpoena or
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1 order is subject to this Protective Order. Such notification shall include a copy of this
2 Stipulated Protective Order; and

3 c. cooperate with respect to all reasonable procedures sought to be
4 pursued by the Designating Party whose Protected Material may be affected.

5 2. If the Designating Party timely seeks a protective order, the Party served
6 with the subpoena or court order shall not produce any information designated in this
7 action as "CONFIDENTIAL" before a determination by the court from which the
8 subpoena or order issued, unless the Party has obtained the Designating Party's
9 permission. The Designating Party shall bear the burden and expense of seeking
10 protection in that court of its confidential material and nothing in these provisions should
11 be construed as authorizing or encouraging a Receiving Party in this Action to disobey a
12 lawful directive from another court.

13 **J. A NON-PARTY'S PROTECTED MATERIAL SOUGHT TO BE**
14 **PRODUCED IN THIS ACTION**

15 1. The terms of this Order are applicable to information produced by a Non-
16 Party in this Action and designated as "CONFIDENTIAL." Such information produced
17 by Non-Parties in connection with this litigation is protected by the remedies and relief
18 provided by this Order. Nothing in these provisions should be construed as prohibiting a
19 Non-Party from seeking additional protections.

20 2. In the event that a Party is required, by a valid discovery request, to produce
21 a Non-Party's confidential information in its possession, and the Party is subject to an
22 agreement with the Non-Party not to produce the Non-Party's confidential information,
23 then the Party shall:

24 a. promptly notify in writing the Requesting Party and the Non-Party
25 that some or all of the information requested is subject to a confidentiality agreement
26 with a Non-Party;
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b. promptly provide the Non-Party with a copy of the Stipulated Protective Order in this Action, the relevant discovery request(s), and a reasonably specific description of the information requested; and

c. make the information requested available for inspection by the Non-Party, if requested.

3. If the Non-Party fails to seek a protective order from this court within 14 days of receiving the notice and accompanying information, the Receiving Party may produce the Non-Party's confidential information responsive to the discovery request. If the Non-Party timely seeks a protective order, the Receiving Party shall not produce any information in its possession or control that is subject to the confidentiality agreement with the Non-Party before a determination by the court. Absent a court order to the contrary, the Non-Party shall bear the burden and expense of seeking protection in this court of its Protected Material.

K. UNAUTHORIZED DISCLOSURE OF PROTECTED MATERIAL

If a Receiving Party learns that, by inadvertence or otherwise, it has disclosed Protected Material to any person or in any circumstance not authorized under this Stipulated Protective Order, the Receiving Party must immediately (a) notify in writing the Designating Party of the unauthorized disclosures, (b) use its best efforts to retrieve all unauthorized copies of the Protected Material, (c) inform the person or persons to whom unauthorized disclosures were made of all the terms of this Order, and (d) request such person or persons to execute the "Acknowledgment and Agreement to Be Bound" that is attached hereto as Exhibit A.

L. INADVERTENT PRODUCTION OF PRIVILEGED OR OTHERWISE PROTECTED MATERIAL

When a Producing Party gives notice to Receiving Parties that certain inadvertently produced material is subject to a claim of privilege or other protection, the obligations of the Receiving Parties are those set forth in Federal Rule of Civil Procedure 26(b)(5)(B). This provision is not intended to modify whatever procedure may be established in an e-

discovery order that provides for production without prior privilege review. Pursuant to Federal Rule of Evidence 502(d) and (e), insofar as the parties reach an agreement on the effect of disclosure of a communication or information covered by the attorney-client privilege or work product protection, the parties may incorporate their agreement in the stipulated protective order submitted to the court.

M. MISCELLANEOUS

1. Right to Further Relief. Nothing in this Order abridges the right of any person to seek its modification by the Court in the future.

2. Right to Assert Other Objections. By stipulating to the entry of this Protective Order no Party waives any right it otherwise would have to object to disclosing or producing any information or item on any ground not addressed in this Stipulated Protective Order. Similarly, no Party waives any right to object on any ground to use in evidence of any of the material covered by this Protective Order.

3. Filing Protected Material. A Party that seeks to file under seal any Protected Material must comply with Civil Local Rule 79-5. Protected Material may only be filed under seal pursuant to a court order authorizing the sealing of the specific Protected Material at issue. If a Party's request to file Protected Material under seal is denied by the court, then the Receiving Party may file the information in the public record unless otherwise instructed by the court.

N. FINAL DISPOSITION

After the final disposition of this Action, as defined in Section E, within 90 days of a written request by the Designating Party, each Receiving Party must return all Protected Material to the Producing Party or destroy such material. As used in this subdivision, "all Protected Material" includes all copies, abstracts, compilations, summaries, and any other format reproducing or capturing any of the Protected Material. Whether the Protected Material is returned or destroyed, the Receiving Party must submit a written certification to the Producing Party (and, if not the same person or entity, to the Designating Party) by the 90 day deadline that (1) identifies (by category, where appropriate) all the Protected

1 Material that was returned or destroyed and (2) affirms that the Receiving Party has not
2 retained any copies, abstracts, compilations, summaries or any other format reproducing
3 or capturing any of the Protected Material. Notwithstanding this provision, Counsel are
4 entitled to retain an archival copy of all pleadings, motion papers, trial, deposition, and
5 hearing transcripts, legal memoranda, correspondence, deposition and trial exhibits,
6 expert reports, attorney work product, and consultant and expert work product, even if
7 such materials contain Protected Material. Any such archival copies that contain or
8 constitute Protected Material remain subject to this Protective Order as set forth in
9 Section F (DURATION).

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1 **O. VIOLATIONS**

2 Any violation of this Order may be punished by any and all appropriate measures
3 including, without limitation, contempt proceedings and/or monetary sanctions.
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5 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED
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7 Dated: December 2, 2016
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10 /S/FREDERICK F. MUMM
11 Hon. Frederick F. Mumm
12 United States Magistrate Judge
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EXHIBIT A

ACKNOWLEDGMENT AND AGREEMENT TO BE BOUND

I, _____ [print or type full name], of _____
[print or type full address], declare under penalty of perjury that I have read in its entirety
and understand the Stipulated Protective Order that was issued by the United States
District Court for the Central District of California on [date] in the case of **Aspen
Specialty Insurance Company v. Riddell Inc. et al., Case No. 2:15-cv-06324**. I agree
to comply with and to be bound by all the terms of this Stipulated Protective Order and I
understand and acknowledge that failure to so comply could expose me to sanctions and
punishment in the nature of contempt. I solemnly promise that I will not disclose in any
manner any information or item that is subject to this Stipulated Protective Order to any
person or entity except in strict compliance with the provisions of this Order.

I further agree to submit to the jurisdiction of the United States District Court for the
Central District of California for the purpose of enforcing the terms of this Stipulated
Protective Order, even if such enforcement proceedings occur after termination of this
action. I hereby appoint _____ [print or type full name] of
_____ [print or type full address and telephone
number] as my California agent for service of process in connection with this action or
any proceedings related to enforcement of this Stipulated Protective Order.

Date: _____

City and State where sworn and signed: _____

Printed name: _____

Signature: _____